GOVERNMENT OF MYSORE.

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT. (LABOUR).

Labour Dispute.—Industrial Dispute between the Workmen and the Management of Karnataka Co-operative Textile Mills, Hubli.

Award of the Industrial Tribunal, Bangalore—Published.

Read the following papers :—

(i) Letter No. IT No. 1244-5/67-68, dated 13th November 1967 from Sbri A. Panchakshariah Presiding Officer, Industrial Tribunal, Bangalore.

BEFORE THE INDUSTRIAL TRIBUNAL IN MYSORE BANGALORE.

Dated 10th November 1967.

Present :

Sri A. Panchakshariah, B.A. (Hons) LL.B., *Presiding officer.*

ID No. 31 of 1967

Workmen of Karnataka Co-operative Textile Mills, Karwar Road, Hubli. ... *I Party*

Vs

Management of Karnataka Co-operative Textile Mills, Karwar Koad, Hubli. ... *II Party*.

Appearances.

For First Party.—Sri M. A. Kutty, Joint Secretary, Rashtriya Girni Mazdoor Sangh, Hubli.

For Second Party.—Sri M. P. Valamannavar, Advocate, Hubli.

Reference.

G. O. No. LMA 653 LLD 66, Bangalore dated 24 May 1967.

AWARD

The workmen of the Karnataka Co-operative Textile Mill, Hubli, placed certain demands before the Management of the said Mill. Those demands are in respect of wages for the laid off period to the workmen during the months of October, November and December 1966, and Bonus for the yaars 1964-65 and 1965-66 and lastly a request to direct the management to offer employmen to the 300 workers who were retrenched in the month of Decem ber 1966. Before the Conciliation Officer these demands were brought for consideration and the Conciliation Officer has submitted a Failure Report. Consequent upon the failure Report submitted by the Conciliation Officer, the Government of Mysore in their order No. LMA 653 LLD 66, dated 24th May 1967 have referred these points of dispute for adjudication under Sec. 10 (1) (d) of the Industrial Dispute Act, 1947, to this tribunal. The points of dispute referred for adjudication are as follows:—

"1. Is the Management of K. C. T. Mills of Hubli, justified in laying off certain workmen of the Mills during the months of October, November and December 1966?

If not, are such laid off workers entitled for payment of full wages or to any other relief?

2. Is the management justified in refusing to pay Bonus to the workmen for the years 1964–65 and 1965–66?

If not, what is the quantum of bonus that can be paid to the workers?

3. Is the management legally correct and justified in recruiting 300 workers without offering re-employment to the retrenched workers? If not, to what relief the retrenched workers are entitled?"

As soon as the Government Order was received, it was registered as I. D. No. 31 of 1967 and notices were issued to the I Party asking them to file a claim statement. The I Party is represented by Sri M. A. Kutty, Joint Secretary, Rashtriya Girni Mazdoor Sangh Hubli. The Claim statement was filed on 9th June 1967. According to this claim statement the II Party management had affected a lay off of workmen in the Mill during October, November and December 1966 without any cause or any reason thereof. This lay–off is attacked as being unjust and illegal. Therefore the workmen are entitled for full wages for the

period of lay-off by the Mills in the months of October, November and December 1966. A list of those workmen who had been laid off during these months has been given in the claim statement as per Ex. M 1.

2. It is contended that the Management has paid Bonus to a few individual Staff members of the Mill for the years 1964-65 and 1965-66, but the workmen have been deprived of the same. The I Party contends that the workmen also are entitled to Bonus for the years 1964-65 and 1965-66 as the industry is an old one. The 3rd point of dispute is that the management had illegally retrenched workmen in the Mill during 1st November 1965, 17th October 1965, 5th December 1966, 29th December 1966 and 3rd January 1967. After these people were retrenched, the II Party ars recruited more than 300 people as new labour and while doing so, those persons who were retrenched were not offered any employment. This fact was brought to the notice of the II Party by the I Party Union by means of several letters for which the II Party did not pay heed. The policy of recruitment of 300 workers is opposed to the principles of Section 25H of the Industrial Disputes Act, 1947 and therefore the I Party prays that all the retrenched workers be offered employment and be taken back to duty in places of those 300 newly recruited people.

3. In the course of the Counter statement the II Party refutes the allegations made by the I Party in the Claim Statement and it is contended that the dispute is not an industrial dispute because the Rashtriya Girni Mazdoor Sangh is not entitled to represent these workmen. Regarding the other contentions the II Party contends that till 17th October 1966 the Mill was working its Loom Shed in two shifts. From 17th October 1966 the 2nd shift working was discontinued, but no workmen were retrenched or sent out of service. The management retained them in service with a view to find out ways and means to provide them work in the first shift. However, some workmen were found to be in excess. Instead of taking the drastic step of terminating the services of the workmen, and guided by purely humanitarian considerations, the management retained them in service, but wherever the workmen were found to be in excess, lay off had to be resorted to in the Weaving and ancilliary departments. With the discontinuance of the 2nd shift of the Loom Shed, the workmen in the Engineering Department were found to be in excess and there also lay-off had to be resorted to. The workmen were laid

off by turn and no workman was laid off continuously. All those who were laid off, have been paid the lay-off compensation according to law. The action on the part of the management was forced by circumstances and was perfectly justified and legal.

4. Some of the Staff members of the II Party are persons whose services have been lent by the K. C. C. Bank, Ltd., Dharwar under special conditions of service and they are entitled to all benefits as are given by the K. C. C. Bank to their employees. Since bonus was paid by the bank to their employees, the II Party had to pay bonus to such of the members of the staff whose services are lent by the said Bank. This has nothing to do with the other workmen. The industry is not an old one but it is still in its infant stage. In 1956 some of the leading co-operators of this Part formed the II Party Society with a view to establish and run a Spinning Mill on co-operative basis. In the meanwhile the present Mill which was formerly run by the New Gujarath Cotton Mills. Ltd., Calcutta,under the name and style of New Karnatak Cotton Mills, had been completely closed and all the workmen were thrown out of employment. Taking into account the consequence of such closure, the State Government prevailed upon the management to purchase the present Mill which was then defunct and to provide employment to the workmen as far as possible Accordingly in October 1959, the II Party Society purchased the present Mill which had been completely closed. Also a major portion of the Spinning machinery had been burnt due to fire accident. After the purchase, the present management first started the Spinning Department and increased the working step by step. Therefore it cannot be said that the industry is an old one and the workmen are entitled to bonus uuder the Payment of Bonus Act. Up to the end of October 1965 the Spinning Dept. in the Mill was working in three shifts, but due to various reasons the management was forced to discontinue the third shift in the Spinning Department. However such of the workmen who had completed one year of service were retained and only those who had not completed one year's service were sent home. Therefore it cannot be contended that the management effected illegal retrenchment on 1st November 1965 In fact when the II Party discontinued the 2nd shift of the Loom Shed from 17th October 1966, no workman was retrenched as a consequence of this discontinuance.

5. As per the decision of the Board of Directors the entire Weaving Department with its ancilliary departments or sections

was closed down and the workmen effected by this closure have been paid compensation as per law. The II Party contends that it is not correct to say that the workmen were retrenched on 5th December 1966. Their services were only terminated as a result of closure. Consequent to the closure of the Weaving and other ancilliary department it was found that some workmen were found to be in excess in the Engineering Dept, Canteen etc., which were common to the Spinning as well as the Weaving Department such workmen were retrenched on 29th December 1966 and they have been paid retrenchment compensation as per law. The II Party also contends that all those whose services were terminated on 5th December 1966 and those that were retrenched on 25th December 1966 had filed complaints before this tribunal for reinstatement and all those complaints have been heard and dismissed. The action taken by the management on 5th December 1966 and on 29th December 1966 cannot be said to be the subject matter of adjudication again.

6. Some of the Officers working in the Mills were provided with domestic servants. Since the management decided to discontinue this facility to the Officers, the domestic servants were retrenched on 1st March 1967 and these servants have been paid retrenchment compensation as per law.

7. Coming to the last point, the management admits that it has recruited about 300 persons in the Mill after the closure of end the retrenchment referred to above. but none of the persons have been recruited in the department or sections or categories which were closed down and in which retrenchment had been effected. Even to this day those sections remain closed. The II Party therefore contends that the reference be rejected as the I Party workmen are not entitled to any relief.

8, On the strength of these pleadings, in addition to the points of dispute scheduled in the Order of Reference, four more issues were framed by me. The case was taken up on 27th and 28th October 1967 at my Hubli camp. Both the parties adduced evidence in respect of their rights. The I Party examined Mr. M. A. Kutty who is the Joint Secretary of the Rashtriya Girni Mazdoor Sangh, Hubli. In addition to examining him the I Party has examined two more witnesses and closed the case. In reply to this evidence the II Party has examined two witnesses and closed the case for the management.

9. Before the evidence commenced Sri Valamannavar who appeared for the II Party, submitted that he would net press Issue No. 1 framed by me. Therefore my finding on Issue No. 1 is that there is an industrial dispute and the Rashtriya Girni Mazdoor Sangh is entitled to represent the workmen in this case.

10. I now take up other issues into consideration. Issues Nos. 2 and 3 framed by me are the same as Issues No. 2 and 3 named in the Order of Reference. I will first take Issue No. 2 which deals with the claim for Bonus for the years 1964-65 and 1965-66. Before taking up the question of payment of Bonus for these two years, it is necessary to refer to the history of this Mill in as brief a manner as possible. Even Sri Kutty who has been examined for the I Party, admits in his evidence that this Mill was recently started. The present Mill came into existance in the year 1959 as is seen from the evidence of M. W. 1 and M. W. 2. The evidence of M. W. 1 is that this Mill is run on a co-operative basis and the Society was registered in 1956 under the Bombay Co-operative Societies Act. The present II Party purchased this Mill in October 1959 and at the time of its purchase the Mill had been completely closed and it was defunct. On 29th May 1960 the II Party started with 2,500 spindles only and even these were re-conditioned out of the old ones. Out of 30,000 spindles which were in the old Mill prior to the purchase, only 13,000 were reconditioned and gradually put to work. The Government of Mysore is one of the partners of this Mill and has invested nearly 40 lakhs of rupees. This fact is admitted even by Sri Kutty on behalf of the I Party when he says that at the time the present management purchased the Mill, the previous management had completely closed the Mill. At the time the II Party purchased the Mill from the previous owners, there was an intention to dismantle the entire machinery by the previous management and therefore the previous workmen had been thrown out of employment. These people who had been thrown out by the previous management started an agitation. The Government of Mysore intervened and requested the present Mill authorities to start the Mill and provide work for those thrown out people Accordingly the Mill re-started. The evidence of M W. 1 further is that the goods manufactured by this Mill were actually put in the market in October 1960 for the first time. Ex. M6 is the invoice to show that the goods were put in the market for the first time. Ex. M7 is a true copy of the entries in the Invoice Register and ever since this Mill was started, it has never

made any profit. To show this, the II Party has produced the Balance Sheets for the years 1959-60 to 1965-66 and then are Exhibits M8 to M14. M. W. 1 further swears that at the time the Mill was started in 1960, the management requested the Central Government to exempt this Mill from the provisions of the Provident Fund Act for a period of three years. The Central Government was pleased to exempt the II Party Miil form the Provident Fund Act for a perid of three years on the ground that it is infant Mill and still opening its eyes. Ex. M15 ia a copy of the letter of the Government of India received by the II Party. These facts have not been seriously challanged in crose examination by the I Party. In fact Sri Kutty admits that when the present management purchased the old Mill it was completely closed and it had become defunct. So that actually the Mill has begun to work and produce goods from October 1960. To such a Mill the provisions of the Payment of Bonus Act would be applicable only under certain conditions.

11. Section 16 of the Payment of Bonus Act has made special provisions with respect to certain establishments :—

"(1) Where an establishment is newly set up whether before or after the commencement of this Act, the employees of such establishment shall be entitled to be paid bonus under this Act only (a) from the Accounting year in which the employer derives profit from such establishment or (b) from the 6th Accounting year following the Accounting year in which the employer sells tho goods produced or manufactured by him or renders service as the case may be, from such establishment, whichever is earlier, provided that in the case of any such establishment the employees thereof shall not, save as otherwise provided in Section 33, be entitled to be paid Bonus under this Act in respect of any Accounting year prior to the Accounting year commencing on any day in the year 1964."

Explanation :—(1) to Section 16 lays down that for the purpose of this Section an establishment shall not be deemed to be newly set up merely by the reason of a change in its location, management, name or ownership. Explanation (2 to Section 16 lays down that for the purpose of clause (a) an employer shall not be deemed to have derived profit in any accounting year unless he

has provisions for that year's depreciation to which he is entitled under the Income-tax Act and (b) the arrears of such depreciation and losses incurred by him in respect of the establishment for the previous accounting years have been fully set off against the profits. The evidence in this case both of the I Party as well as of the II Party very clearly goes to show that it was practically a new industry which was started in October 1960 and for the first time the goods were released for sale in the market as per Ex M6. The previous owners had completely closed the Mill and the workers had been disbanded and this is admitted by Sri Kutty for the I Party. It is supported by the evidence of M.W.1. As per the letter written by the Central Government this Mill has been treated as an infant mill as per Ex-M15 and it is exempted for a period of three years from the previsions of the Provident Fund Act. Therefore, under Section 16 this Mill is exempted from the application of the provisions of the Bonus Act. The Balance sheets produced in this case Exhibits M8 to M14 very clearly go to show that in no year did the II Party earn any profits. It is only in 1960-61 that this mill has made a profit of Rs. 1,599.36 whereas in the previous year 1959 60 as per the Balance Sheet Ex. M8 it has incurred a loss of Rs. 1,50,439.68 and the net loss has been carried forward to the next year *viz.*, 1960-61 in which it has made some profit, and deducting that profit, the loss was still Rs. 90,461 06. Sri Kutty argued that the Mill has earned a profit in the 2nd year of its start and therefore Section 16 is not applicable to this Mill. His argument is quite wrong in view of clause (b) to Section 16 where it says that the arrears of depreciation and loss incurred by him in respect of the establishment for the previous accounting years have been fully set off against the profits. I have shown that the losses suffered by this Mill 1959-60 are more than 10 times the profits earned by the Mill in 1960-61. Therefore the provisions of Sections 16 of the Payment of Bonus Act completely exempt the II Party from the provisions of the Payment of Bonus Act. It is admitted by M. W. 1 that for the year 1960-61 the provisions have been made for payment of Bonus. The position is the same right from the beginning upto 1960-61 and the Mill has not earned any profit whatsoever. The I Party workmen therefore are not entitled to claim Bonus from the II Party for the years in question *viz.*, 1964-65 and 1965-66.

12. It was next argued by Sri Kutty and in fact it is also in the claim statement, that the II Party has paid bonus to some members of the Staff while the same has been denied to other workers.

of the Mill and thus a discrimination has been mode in the payment of bonus. M.W. 1 has told in his evidence that it is true that bonus is paid to only 4 employees of the staff and these four people have been lent by the K.C.C. Bank under special service conditions agreed to by the Board of Directors of this Mill M.W. 1 is one of the employees lent by the K,C.C. Bank. The K. C. C. Bank is the financial Agency of the II Party. In addition to M. W, 1, the services of three more people have been lent by the K. C. C. Bank to this Mill. One of them is Sri Magalamani who is the Strore-keeper of this Mill. The second Sri Kupsad, Accountant and the third is Sri Rajamani, Senior Clerk to the Accountant. He further swears that at the time these 4 people were lent by the said Bank to the II Party Mill it was agreed that the same service conditions as are in the Bank should be given to these 4 people. The Board of Directors and the II Party accepted the terms and conditions imposed by the K.C.C. Bank in respect of these 4 people. One of the conditions of service is that these four people should be paid bonus by the II Party whenever the K. C. C. Bank pays bonus to its employees. Exhibits M3, M4 and M5 are the resolutions passed by the Board of Directors of the II Party from time to time. The II Party has paid bonus to 4 of these people at the same rate as has been paid by the K.C. Bank to its employees. It is therefore clear that the bonus if at all is paid to these four people under the agreements Exhibits M3, M4 and M5. From the point of view of the II Party it would not be strictly bonus that is paid to these four people, but extra payment which is termed by the K C. C. Bank as Bonus. If that interpretation is correct, then it cannot be said that the II Party has paid bonous to any of its employees for the years 1965-66 and there cannot be any question of discrimination at all. That disposes of the question of bonus and claim for bonus for the years 1964-65 and 1965-66.

13. My finding therefore on Issue No. 2 is that the Management is justified in refusing to pay bouus to the workmen for the years 1964-65 and 1965-66. It follows that the workmen are not entitled to claim bonus for these two years.

14. I now proceed to consider demand No. 1 listed in the Order of Reference and that is :—

> " is the Management of Karnatak Co-operative Textile Mills. Hubli, justifying in laying off certain workers of the Mill during the month of October, November and

December 1966 ? If not, are such laid-off workmen entitled to payment of full wages or to any other relief ? "

The list of workmen who were laid off during these months is given by the I Party and the same is Ex, W1. The contention of the I Party is that the II Party management effected lay-off of workmen of the Mill during October, November and December 1966 without any cause reason thereof. The lay-off effected by the II Party therefore is unjustified and illegal and the workers are entitled to full wages for the period of lay-off during October, November and December 1966. The Management has met these allegations in the counter statement as follows.

> " Till 17th October 1966 the Mill was working its Loom Shed in two shifts. From 17th September 1966 the 2nd shift was discontinued but no workman was sent out of service. Instead of terminating the services of such workmen the management retained them in service with a view to find out ways and means of providing them in the first shift. However, some workmen were found to be in excess. Instead of taking the drastic step of terminating the services of the exces workmen the management retained them in service guided purely by humanitarian considerations and wherever workmen were found to be excess, lay-off had to be resorted to in the weaving and ancillary departments. With the discontinuance of the 2nd shift of the Loom Shed. the workers in the Engineering Department were found to be in excess and there also lay-off had to be resorted to whenever lay-off was resorted to it was done by turns and no workman was laid off continuously and whenever lay-off was resorted to, the necessary compensation according to law was paid to the workmen laid off. On that account the I Party cannot have any complaint."

On this point both the parties have adduced evidence. I will first take up the evidence of the I Party. W.W. 3 was an employee of this Mill and he was working in the Weaving Department. His evidence is that he was removed in December 1966 from service. After he was removed he approached the Management 3 or 4 times for work but the management went on promising him appointment. He was working as a Weaver in the

Weaving Department. At the present moment the Weaving Departments is completely closed. According to him the Weaving Department consisted of Weaving, Sizing, Warping, Drawing-in, Winding and Folding Sections. All these sections were closed along with the Weaving Department and they are closed even now. The evidence of WW2 is that he worked in the II Party Mill for the last 6 years and he is one of them who have been removed from service. He was working as a Carpenter in the Engineering Section. In 1966 there was a retrenchment of workmen in the II Party Mill and he is one of those that were retrenched. Before that he was laid off by the management. He admits that the management used to lay off workers by turn. But his case is that without prior intimation and without prior notice and without giving any reason the management was laying-off. He admits in the cross-examination that the management used to lay-off workers by turn. On 29th December 1966 he was finally retrenched when the Weaving Department was closed. He admits that whenever the workmen were laid off, half the wages were being paid to them as lay-off compensation. From the evinence of these witnesses it is clear that there is no substance in the contention of the I Party that no compensation was paid to them whenever they were laid off. Sri Kutty admits in his evidence that from 17th October 1966 the 2nd shift of the Weaving Department was discontinued and before that Ex. M1 was issued to the Union by the management. Ex. M2 is the reply to Ex. M1. He further admits that Ex. M2 refers to a notice given by the management on 29th April 1966 in connection with the proposed discontinuance of the 2nd shift of the Weaving Department. This Weaving Department has got its own preparatory independent sections. The Engineering Department is common to both the weaving and spinning departments. As a consequence of the closure of the 2nd shift of the Weaving Department, the quantum of work was reduced not only in the Engineering Section but in other sections of the Weaving Department also. Sri Kutty admits that inspite of the closure of the 2nd shift in the Weaving department none of the workers was retrenched. The management therefore had to provide work for workers in the 2nd shift. These workers who were working in the 2nd shift of the Weaving Department had to be accommodated in the first shift in the Weaving department as Weavers. The Union wrote to the management in reply to Ex. M1 that this closure should not result in re-employment or non-employment. The letter was addressed on 12th October 1966. The

management therefore did not know what to do and in trying to find work for the 2nd shift workmen working in the Weaving Department in the first shift, the management found that the workers in the first shift and in the Engineering section became excessive. Then alone they could have terminated the services of these excess workmen, but out of sheer humanitarian considerations the management did not resort to termination or retrenchment. It tried its best to keep on these workmen and the only alternative open to the management was to lay-off by turns. The *bonafides* of the management therefore are quite obvious. All the while the anxiety of the management was not to throw these poor people out of employment, but at the same time the management had to safeguard its interest also. In doing so the only way was resorted to lay off. The *bonafides* of the management are further established by the admission of WW2 who says that by turns the workers used to be laid off and no one worker was continuously laid off. Further he admits that lay off compensation has been paid to every worker. Sri Kutty argued that no Register of Lay Off was separately kept by the management. The II Party produced at the time of evidence a Register giving information regarding the persons laid off. Sri Kutty inspected this Register and was satisfied with this Register. Of course, no particular form is prescribed and no particular procedure is laid down to show the form in which this Register had to be maintained. As long as the information necessary was available, it does not matter in what form the Register is maintained. So far as issue of notice is concerned, Sri Kutty himself admits that on 24th September 1966 the management had given a notice to the Union that change in the conditions of service would effected. Therefore the workmen cannot have any grievance either as to the justifiability or legality of the lay-off of the workers in these three months. Nor can they have any grievance against the compensation paid to them during these three months. My finding on Issue No. 1 therefore is that the management of the K. C. T. Mill, Hubli, was fully justified in laying-off certain workers of the Mills in October, November and December 1966. My finding on the 2nd part of Issue No. 1 is that since all these workers who had been laid off by turns had been paid their compensation, they are not entitled to full wages or to any other relief.

15. The only other issue that remains to be considered is the last issue *viz.*, Issue No. 3. Issue No. 3 as found in the Order of Reference is:—

"Is the management legally correct and justified in recruiting 300 workers without offering re-employment to

the retrenched workers? If not, to what relief teh retrenched worker are entitled ?"

Issue No. 3 framed by me according to the pleadings of both the parties is as follows:—

"Has the II Party recruited 300 workmen or anybody in the department or section or category which were closed down or which retrenchment had been effected ?"

In this connection I refer to the pleadings of the parties. The contention of the I Party is to be found in para 3 of the claim statement. According to para 8 of the claim statement the II had illegally retrenched workmen in the mill on 1st November 1965, 17th October 1966, 5th December 1966, 29th December 1966 and 1st March 1967. The management has recruited more than 300 workmen as new workmen to its employment after denying employment to those retrenched workmen. The I Party had represented these facts to the management in letter and by way of personal request, but the management did not pay heed to the requests of the I Party. Therefore the I Party prays that the retrenched employees be kindly ordered to be absorbed as per Section 25H of the Industrial Disputes Act, 1947, with suitable compensation. The case of the I Party is met by the II Party in the counter statement in para 11. The II Party admits that the management had recruited about 300 persons in the mill after the closure and retrenchment referred to above. But they have not recruited any new pessons in the departments or sections or categories which were closed down or in which retrenchment had been effected. Therefore the I Party is not entitled to any reliefs. The evidence on this point is to be found in the deposition of WW 3. The evidence of WW 3 Abdul Rahman is that he was working in the Weaving Department of the II Party Mill and in December 1966 he was removed from service. After his removal about 300 people were recruited afresh by the II Party and these 300 workers are working in the winding department and other departments. It is the case of the II Party that these 300 people who were recruited afresh, were not recruited for working in the Weaving Department which has been closed permanently, but they are recruited for other work in other departments. WW 3 has told the tribunal that he was working as a Weayer in the Weaving Department. He admits that at the present moment the Weaving Depaatment consisted of Weaving, Sizing, Warping, Drawing-in, Winding and Folding Departments. He further

admits that all these sections were closed along with the Weaving Department. The above sections are connected with the Weaving Department According to him the Sizing Section is even now closed. Warping, Drawing-in and Folding Sections were also closed. So also the Winding Section. They all remain clsoed even to this day. Winding was being done as a Weaving Preparatory and that is also closed. In the new winding Section which is a different type of winding known as Cone Winding, has started working and about 30 or 40 out of the new recruits are working in the Cone Winding Section. He and Sri Kutty both admit that the II Party has completely closed the Weaving Department and the ancilliary departments in which 700 workmen had been retrenched. It is the case of the II Party further that out of these 700 workers who were recruited, nearly 378 to 400 workers had filed complaints under Section 33A before this tribunal and the tribunal dismissed all those complaints by means of several awards. It is therefore contended that it is not open to the I Party to re-agitate the matter which had concluded by the awards passed on their own complaints. Accepting this argument it must be held that there must be some finality for the agitation of the workmen and it is not open to them to re-agitate the matter over and over again against which no appeal is filed nor is that award challanged by the I Party in any other way. Even otherwise WW 3 admits in unmistakable terms that those departments which were closed with the Weaving Department on 5th December 1966 as a consequence of which nearly 700 people were thrown out of employment are even now closed and the evidence of the management is that none of these 300 workers freshly recruited are working in these departments which were permanently closed. The argument of Sri Kutty is that a chance should have been given to these retrenched workers and the employement should have been offered to them first and if they rejected the employment or the offer of employment, it was open to the management to recruit any number of persons. This argument would be right if the management had recruited 300 people to work in the same departments from which these 700 workers were retrenched. Those sections are even now closed according to the evidence of Sri Kutty as well as the evidence of WW 2 and WW 3. Therefore there is no substance in the contention of Sri Kutty to say that these persons retrenched should have been given an opportunity to serve in the departments in which they did not serve and from the departments from which they were not retrenched. I therefore find on Issue No. 3 that

the I Party has failed to show that the II Party has recruited 300 workmen or anybody in the department, or section or category which were closed down or in which retrenchment had been effected. It follows that my finding on point of dispute No. 3 in the Order of Reference should be held against the I Party. My finding on that point is that the management was legally correct and justified in recruiting 300 workers without offering re-employment to the retrenched workers. My finding on the latter part of point of dispute No. 3 of the Reference is that the retrenched workers are not entitled to any relief.

16. In the result there is no merit in this Reference and the same is rejected. In the circumstances, each party will bear its own costs.

A. PANCHAKSHARIAH,
Presiding Officer,
Industrial Tribunal.

ORDER

Bangalore, dated the 18th November 1967.

S. O. 2259.— WHEREAS by State Government Order No. LMA 653 LLD 66, dated 24th May 1967, the Industrial Dispute between the Workmen and the Management of Karnataka Co-operative Textile Mills, Hubli was referred to the Industrial Tribunal Bangalore, for adjudication ;

AND WHEREAS the Industrial Tribunal, Bangalore, has submitted to the State Government its award in respect of the said Industrial Dispute ;

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette*.

[No. LMA 653 LLD 66.]

By Order and in the name of the Governor of Mysore,

1493 G. G. PUROHIT, *Under Secy.*